



DEPARTMENT OF THE NAVY
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4 Apr 02

MEMORANDUM FOR NAVFAC ACQUISITION PERSONNEL

**Subj: IMPLEMENTATION OF SECTION 811 OF THE NATIONAL DEFENSE
AUTHORIZATION ACT, FY 2002, REGARDING PURCHASES FROM
FEDERAL PRISON INDUSTRIES (02-09)**

Encl: (1) OUSD (AT&L) DP memo dated March 4, 2002
(2) ASN (RD&A) Memo of Mar 8, 2002

1. Enclosures (1) and (2) are forwarded for your information and immediate action as appropriate.
2. Enclosures (1) and (2) advises that 10 USC 2410n takes precedence over the current Federal Acquisition Regulations (FAR) that addresses purchases from the Federal Prison Industries, and provides notice that this provision is in effect and controlling. An interim Defense (FAR) Supplement rule is awaiting approval from the Office of Management and Budget, Office of Information & Regulatory Affairs that will provide more definitive guidance. In the meantime, you should be aware of 18 USC 4124 and consult with counsel.

A handwritten signature in black ink, appearing to read "Michael F. Howard", is located below the list of enclosures.

MICHAEL F. HOWARD
Director, Acquisition Strategic Programs



DEPARTMENT OF THE NAVY
OFFICE OF THE ASSISTANT SECRETARY
RESEARCH, DEVELOPMENT AND ACQUISITION
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

MAR 8 2002

MEMORANDUM FOR DISTRIBUTION

Subj: IMPLEMENTATION OF SECTION 811 OF THE NATIONAL DEFENSE
AUTHORIZATION ACT, FY 2002, REGARDING PURCHASES FROM
FEDERAL PRISON INDUSTRIES

Encl: (1) OUSD(AT&L)DP memo dated March 4, 2002

Section 2410n of title 10 was enacted by Section 811 of the
FY 2002 National Defense Authorization Act. Enclosure (1)
advises that 10 USC 2410n takes precedence over the current
Federal Acquisition Regulations (FAR) that address purchases
from Federal Prison Industries, and provides notice that this
provision is in effect and controlling. Enclosure (1) also
advises that you should be aware of 18 USC 4124 and consult with
counsel.

We will advise you when the interim Defense (FAR)
Supplement rule, which will provide more definitive guidance, is
published in the Federal Register.

If you have any questions, please contact Ms. Deborah
Tronic ((703) 602-2842, tronic.deborah@hq.navy.mil), or Mr.
Clarence Belton ((703) 602-2807, belton.clarence@hq.navy.mil).

Peter M. Chase
Director, Policy and Resources
Acquisition and Business
Management

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ACQUISITION,
TECHNOLOGY
AND LOGISTICS

OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON, DC 20301-3000

March 4, 2002

MEMORANDUM FOR DIRECTOR OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS
MANAGEMENT, ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DEPUTY ASSISTANT SECRETARY OF THE ARMY
(PROCUREMENT)
EXECUTIVE DIRECTOR FOR LOGISTICS POLICY AND
ACQUISITION MANAGEMENT (DLA)

SUBJECT: Implementation of Section 811 of the National Defense Authorization Act,
FY 2002, Regarding Purchases from Federal Prison Industries

Section 2410n of title 10, United States Code, enacted by section 811 of the National Defense Authorization Act, FY 2002 (Pub. L. No. 107-107), specifies under what circumstances the Department of Defense is not required to purchase mandatory items from Federal Prison Industries (FPI) (copy attached). This provision was effective on October 1, 2001, and takes precedence over the current Federal Acquisition Regulations (FAR) that address purchases from FPI. You should also be aware of 18 U.S.C. 4124 and consult with counsel in regard to such purchases.

While 10 U.S.C. 2410n is in effect and controlling, more definitive guidance will be forthcoming through an interim Defense FAR Supplement (DFARS) rule concerning DoD purchases from FPI. This interim rule has been forwarded to the Office of Management and Budget, Office of Information & Regulatory Affairs for approval. If you have any questions, please call Mr. Domenic Cipicchio, Deputy Director, Defense Procurement (Contract Policy & Administration) on (703) 697-0895 or Mr. Douglas Larsen, Deputy General Counsel (Acquisition & Logistics) on (703) 697-5387.

Deidre A. Lee
Director, Defense Procurement

Attachment:
As stated



Enclosure (1)

NATIONAL DEFENSE AUTHORIZATION ACT, FY 2002
(Pub. L. No. 107-107)

SEC. 811. APPLICABILITY OF COMPETITION REQUIREMENTS TO PURCHASES FROM A REQUIRED SOURCE.

(a) **CONDITIONS FOR COMPETITION.**—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following:

“§2410n. Products of Federal Prison Industries: procedural requirements

“(a) MARKET RESEARCH BEFORE PURCHASE.—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(d) of title 18, the Secretary of Defense shall conduct market research to determine whether the Federal Prison Industries product is comparable in price, quality, and time of delivery to products available from the private sector.

“(b) LIMITED COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, and time of delivery to products available from the private sector, the Secretary shall use competitive procedures for the procurement of the product. In conducting such a competition, the Secretary shall consider a timely offer from Federal Prison Industries for award in accordance with the specifications and evaluation factors specified in the solicitation.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

“2410n. Products of Federal Prison Industries: procedural requirements.”

(b) **APPLICABILITY.**—Section 2410n of title 10, United States Code (as added by subsection (a)), shall apply to purchases initiated on or after October 1, 2001.